

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MDM RESTAURANTS, INC.,
a Michigan corporation, d/b/a
SILVER CRICKET, a Michigan
Corporation,

Plaintiff,

Case No. 04-CV-73877-DT
Hon. Lawrence P. Zatkoff

-vs-

THE CITY OF DEARBORN, a Michigan
Municipal Corporation,

Defendants,

ORDER GRANTING PARTIAL SUMMARY JUDGMENT TO PLAINTIFFS

This matter having come before this Court on the Stipulation for Entry of Order Granting Partial Summary Judgment to Plaintiffs, the Court having reviewed that stipulation which concludes that based upon this Court's Opinion and Order of December 8, 2005, entry of this Order is appropriate in the circumstances, and the Court being otherwise duly advised in the premises:

IT IS HEREBY ORDERED that Partial Summary Judgment be and is hereby entered in favor of the Plaintiff and against the Defendant, the City of Dearborn, which finds:

- a. Ordinance 3-30(2)(b) of the Dearborn Code is unconstitutional in that it "creates an improper imposition of strict liability or creates an irrebuttable presumption and is overbroad;"
- b. Section 3-30(2)(b) of the Dearborn Code is unconstitutional as presently written; and,

- c. Dearborn's enforcement of Section 3-30(2)(b) and its recommendation to the MLCC that the liquor licenses and related permits of Silver Cricket (MDM Restaurants, Inc.) be revoked violated the Plaintiffs' due process rights under the Fourteenth Amendment to the United States Constitution.

IT IS FURTHER ORDERED that the Court's findings of fact and conclusions of law in support of the findings set forth above shall be the identical reasons as are contained in the Court's December 8, 2005, Opinion and Order, which are incorporated herein by reference as if fully set forth herein.

IT IS FURTHER ORDERED that the Defendant, the City of Dearborn, by stipulating to the entry of this Order is not conceding that Ordinance 3-30(b)(2) is unconstitutional or that its recommendation to the MLCC to revoke Plaintiffs' liquor licenses and related permits violated Plaintiffs' due process rights; rather this Order is being entered based upon the stipulation of the parties and being entered for the purposes of preserving judicial economy.

IT IS FURTHER ORDERED that the Defendant, the City of Dearborn, by entry of this Order based upon its stipulation, is not waiving its right to appeal this Court's December 8, 2005, Opinion and Order, the findings contained therein, or this Order.

IT IS SO ORDERED.

Dated: January 30, 2006

s/Lawrence P. Zatkoff
U.S. DISTRICT COURT JUDGE